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JOHN F. DAVIS, CLE

IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 41

HENRY BROWN, WILLIE KELLY, L. C. BIBBINS, ROBERT SMITH and CLEVELAND McKINZIE,

Petitioners,

vs.

STATE OF LOUISIANA,

Respondent.

ON WRIT OF CERTIORARI TO SUPREME COURT OF LOUISIANA

BRIEF FOR PETITIONERS

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INDEX

PAGE

Opinions Below 1

Jurisdiction 1

Constitutional and Statutory Provisions Involved 2

Questions Presented 4

Statement of the Case 6

How Federal Questions Were Raised 11

Reasons for Granting Writ 11

Argument 12

Point I—The convictions below violate constitutional guarantees of due process of law 12

A. The convictions below were totally unsupported by the evidence 12

B. The elements necessary to establish a breach of the peace under Louisiana law were carefully analyzed by this Court in *Garner* v. *Louisiana*, 368 U. S. 157, 82 S. Ct. 248 14

C. The Louisiana statute as applied to these petitioners was vague, uncertain and indefinite 15

Point II—The convictions below constitute enforcement of racial segregation in violation of Constitutional guarantees of equal protection of the laws and statutory guarantees of freedom from punishment for exercising rights to non-segregated use of facilities 17

PAGE

POINT III—Petitioners having presented themselves peacefully, the convictions below constitute a denial of petitioners' rights of freedom of expression and assembly and constitute a denial of the right to redress a public grievance 18

POINT IV—Had these acts occurred on or after July 2, 1964, arrests therefore would have been improper under Title III of the 1964 Civil Rights Act; accordingly the convictions should be abated 20

CONCLUSION 21

Certificate 22

TABLE OF AUTHORITIES

Cases:

Bell v. Maryland, 378 U. S. 226 20
Brown v. Board of Education, 347 U. S. 483 18

Cantwell v. Connecticut, 310 U. S. 296 15
Connally v. General Construction Co., 269 U. S. 385 16
Cox v. Louisiana, 379 U. S. 536 16

Edwards v. South Carolina, 372 U. S. 229 19

Garner v. Louisiana, 368 U. S. 157 ..... 14, 16, 18, 19
Gayle v. Browder, 352 U. S. 903 13

Hamm v. Rock Hill, 379 U. S. 306 20
Holmes v. Atlanta, 350 U. S. 879 13

Lanzetta v. New Jersey, 306 U. S. 451 16

Mayor and City Council of Baltimore City v. Dawson, 350 U. S. 877 13

PAGE

NAACP v. Alabama, 357 U. S. 449 19
New Orleans City Park Improvement Asso. v. Detiege, 358 U. S. 54 13
Taylor v. Louisiana, 370 U. S. 154 ..... 12, 14
Thompson v. Louisville, 362 U. S. 199 12
United States v. L. Cohen Grocery, 225 U. S. 81 16
Winters v. New York, 333 U. S. 507 17
Wright v. Georgia, 373 U. S. 284 ..... 12, 17

United States Constitution:

First Amendment 2
Fourteenth Amendment 2

Statutes:

Civil Rights Act of 1964, Title III, Section 301(a) 2
Louisiana Revised Statutes of 1950, Title 14, Section 103.1 ..... 3, 15, 16

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BRIEF FOR PETITIONERS

Opinions Below

The Louisiana District Court found petitioners guilty, without written opinion. The memorandum opinion of the Supreme Court of Louisiana is unreported and appears in Record, p. 139.

Jurisdiction

The convictions were rendered by the District Court on April 9, 1964. Petitioners' Motion for a New Trial was denied on October 7, 1964. Petitioners' application to the

Supreme Court of the State of Louisiana for Writs of Mandamus, Certiorari and Prohibition was denied by decree of that court made and entered on October 26, 1964. A petition for certiorari was filed in this Court on January 4, 1965. Certiorari was granted on May 3, 1965.

The jurisdiction of this Court in this case is invoked pursuant to Title 28, United States Code, Section 1257 (3).

Constitutional and Statutory Provisions Involved

United States Constitution, Amendment First:

> "Congress shall make no law . . . abridging the freedom of speech . . . or of the people peaceably to assemble, and to petition the Government for a redress of grievances."

United States Constitution, Amendment Fourteen, Section 1:

> "No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Civil Rights Act of 1964, Title III, Designation of Public Facilities:

> "Sec. 301 (a) Whenever the Attorney General receives a complaint in writing signed by an individual to the effect that he is being deprived of or threatened with the loss of his right to the equal protection of the laws, on account of his race, color, religion, or national origin, by being denied equal utilization of any public facility which is owned, operated, or managed by or on behalf of any state or subdivision thereof, other than a public school . . ."

Louisiana Revised Statutes of 1950, Title 14, Section 103.1, Disturbing the Peace:

A. Whoever with intent to provoke a breach of the peace, or under circumstances such that a breach of the peace may be occasioned thereby:

(1) crowds or congregates with others, providing however nothing herein contained shall apply to a bona fide legitimate labor organization or to any of its legal activities such as picketing, lawful assembly or concerted activity in the interest of its members for the purpose of accomplishing or securing more favorable wage standards, hours of employment and working conditions, in or upon a shore protection structure or structures, or a public street or public highway, or upon a public sidewalk, or any other public place or building, or in any hotel, motel, store, restaurant, lunch counter, cafeteria, sandwich shop, motion picture theatre, drive-in, beauty parlor, swimming pool area, or any sports or recreational area or place, or any other place of business engaged in selling or serving members of the public, or in or around any free entrance to any such place of business or public building, or to any building owned by another individual, or a corporation, or a partnership or an association, and who fails or refuses to disperse and move on, or disperse or move on, when ordered so to do by any law enforcement officer of any municipality, or parish, in which such act or acts are committed, or by any law enforcement officer of the state of Louisiana, or any other authorized person, or

(2) insults or makes rude or obscene remarks or gestures, or uses profane language, or physical acts,

or indecent proposals to or toward another or others, or disturbs or obstructs or interferes with another or others, or

(3) while in or on any public bus, taxicab, boat, ferry or other water craft or other vehicle engaged in transporting members of the public for a fare or charge, causes a disturbance or does or says, respectively, any of the matters or things mentioned in sub-section (2) supra, to, toward, or in the presence of any other passenger on said vehicle, or any person outside of said vehicle or in the process or boarding or departing from said vehicle, or any employee engaged in and about the operation of such vehicle, or

(4) refuses to leave the premises of another when requested so to do by any owner, lessee, or any employee thereof, shall be guilty of disturbing the peace.

B. Whoever commits the crime of disturbing the peace as defined herein shall be punished by a fine or not more than two hundred dollars, or imprisonment in the parish jail for not more than four months, or by both such fine and imprisonment. Added Acts 1960, No. 69, §1.

Questions Presented

Petitioners, all residents of East and West Feliciana Parishes, Louisiana, were arrested and convicted on charges of disturbing the peace under a Louisiana statute R. S. 14:103.1 for their failure to vacate a public area of the Audubon Library Building, a library operated by the three parishes of East Feliciana, West Feliciana and St. Helena, jointly, in the Town of Clinton, Louisiana, after being requested to leave by the librarians and by the sheriff. The

evidence showed that petitioners had entered the library to use the facilities available to the public. No evidence that petitioners were loud or boisterous or that any breach of the peace occurred was offered. Evidence was presented, however, showing that petitioners, all Negroes, were asked to leave, although not disorderly, because it was the policy of the library not to permit Negroes to use that building.

Did the arrest and conviction of the petitioners deprive them of rights protected by

(1) The Due Process clause of the Fourteenth Amendment to the Constitution of the United States in that they were convicted without any evidence of the essential elements of the crime;

(2) The Due Process clause of the Fourteenth Amendment in that they were convicted under a statute which, as interpreted, was so vague and indefinite as to afford no ascertainable standard of criminality;

(3) The Due Process and Equal Protection clauses of the Fourteenth Amendment in that their arrests and convictions constituted enforcement of racial segregation;

(4) The First Amendment, as made applicable to the states through the Fourteenth Amendment, in that petitioners' freedom of expression has been abridged;

(5) Title III of the Civil Rights Act of 1964 in that such arrests and convictions constitute an attempt to punish petitioners for exercising their right to be free of discrimination?

Statement of the Case

On March 7, 1964, about 11:30 A. M., petitioners, all Negroes, entered the public reading room of the Audubon Regional Library in the town of Clinton, Louisiana. The library is jointly operated by three Parishes and is supplied, in part, by the Louisiana State Library.

It maintains three branches and two Bookmobiles as its "points of service" (R. 103, 109, 114-115). The Red Bookmobile services the white residents and their schools. The Blue Bookmobile operates in the Negro area and services the Negro residents and their schools (R. 109, 115, 128-129, 137).

To use the library, a person must be a "registered borrower" (R. 111). All Negroes are registered through the Blue Bookmobile by the Negro librarian in charge (R. 128-129, 137-138). A card is then issued with the word "Negro" stamped on it (R. 137). White persons cannot use the Blue Bookmobile to register or check out a book. They are referred to the nearest Branch or to the Red Bookmobile (R. 137-138).

At no time can a Negro pick up (R. 95, 98) or return (R. 112, 114, 116) a book at the Audubon Regional Library. Petitioner Brown was told that his book would be mailed or he could pick it up at the Blue Bookmobile (R. 95, 98). To return the book, he was to mail it or bring it to the Blue Bookmobile (R. 112, 114, 116).

Never before March 7, 1964 had a Negro been seen at the Audubon Regional Library, although it has been in existence since 1961 (R. 102). Neither the librarian (R.

120) nor the sheriff (R. 132) had ever seen a Negro enter the library.

After petitioners entered the library, Petitioner Brown requested a book. Brown was told by the librarian that the book was not available, and she would have to be sent for it (R. 95).

Moments later, petitioners were told to leave. The Assistant Librarian "assumed" they would leave because she did not have the book (R. 96). After a second demand, she called in the Regional Librarian (R. 103) who also told petitioners to leave. Petitioners, in response to these requests, remained in the reading room (R. 96, 121). They said nothing and did nothing (R. 96). At no time were they noisy or boisterous (R. 97, 121).

Testifying that she was "disturbed" by the presence of petitioners (R. 126-127), the Regional Librarian offered no evidence as to what it was that petitioners did to cause her to be disturbed. In fact, no one objected to any activity of petitioners other than their presence in the reading room.

About 9:00 that morning, the sheriff was notified by his deputy that "something" was going to take place at the library (R. 117-118). He was not called, however, by either librarian or anyone at the library (R. 107, 131). All morning the sheriff watched and waited for petitioners, until he finally saw them come down the street (R. 117) and enter into the library (R. 118). He immediately called his deputies (R. 118-119, 131) and dispatched them to the library

building. The sheriff stated that he and his deputies arrived there approximately five minutes after petitioners (R. 131).

Petitioners were seeking by their acts, the sheriff testified, to effect a change of the policy of segregation in the Audubon Regional Library (R. 118). Prior to arresting petitioners, however, the Sheriff did not directly ascertain whether petitioners intended to use the facilities at the library building (R. 122-123). Only after petitioners were taken to jail did the Sheriff ask them why they were at the library (R. 118). Before this time, he had no conversation with petitioners (R. 120).

After the librarians told the Sheriff they had ordered petitioners to leave the building, the Sheriff also demanded that they leave (R. 116). He presented them with the choice of leaving the building or being arrested (R. 117, 121).

When petitioners indicated they would not leave, they were arrested (R. 117). They were not arrested, however, because their actions were considered a demonstration (R. 120). Having made no noise (R. 97, 121), their disturbance consisted solely of their refusal to leave the library (R. 121). Their subsequent arrest was entirely due to petitioners' refusal to obey the demands of the librarians or the Sheriff.

A Bill of Information was filed by the District Attorney on March 11, 1964, and petitioners appeared for trial on March 24, 1964. The trial was completed on April 9, 1964.

At the outset of the trial petitioners moved to quash the Bill of Information on the grounds (a) that the Bill did not inform petitioners of the crimes of which they were ac-

cused, (b) that the statute referred to therein was unconstitutional for vagueness, (c) that the statute and Bill fail to allege criminal or specific intent, (d) that the Bill and prosecution violate the First and Fourteenth Amendments to the Constitution of the United States by depriving petitioners of freedom of assembly and equal protection of the laws, and (e) that the statute and Bill represent an unlawful delegation of legislative powers.

Petitioners' Motion to Quash was denied, as was petitioners' demand for certain particulars regarding the elements of the offense charged by the State (R. 15-16, 11-12, 69).

The District Court found all petitioners guilty as charged (R. 139). On July 14, 1964 petitioners timely moved for a new trial on the ground that no evidence existed in the record to support the judgment. This motion was denied on the same day and the petitioners were thereupon sentenced as follows:

> Petitioner Brown: $150 and costs, and in default of payment of the fine, 90 days in the parish jail.
>
> Petitioners Kelly, Bibbins, Smith and McKinzie; $35 and costs, and in default of payment of the fine, 15 days in the parish jail. (R. 3)

On July 28, 1964 nine separate Bills of Exceptions were filed relating to rulings of the District Court, including the denials of the demands for particulars, the Motion to Quash and the Motions for a New Trial (R. 8-32). Per curiam opinions with regard to the nine Bills of Exceptions were rendered by the District Court on October 7, 1964 (R. 8-32).

Pursuant to a Notice of Application for Supervisory Writs filed on July 28, 1964, petitioners sought review by

the Supreme Court of Louisiana of the judgment of conviction and sentence (R. 8-32). Under Louisiana law no direct appeal procedure was available, since the fines imposed were less than $300 and the jail terms less than six months. Writs of mandamus, certiorari and prohibition were sought under the general supervisory jurisdiction of the Supreme Court of Louisiana (Louisiana Constitution, Article VII, Section 10) and in accordance with Rule 12 of the Louisiana Supreme Court Rules.

On October 26, 1964, the Supreme Court of Louisiana unanimously denied petitioners' applications for writs of mandamus, certiorari and prohibition, holding that there was no error in any of the rulings and judgment of the District Court (R. 32). On October 28, 1964 bench warrants were issued by the District Court to effect execution of the sentences imposed upon petitioners. The District Court then adjourned until November 2, 1964.

On October 28, 1964 petitioners filed a petition with the Supreme Court of Louisiana for stay of execution of sentences, requesting 90 days to enable petitioners to file a Petition for Writ of Certiorari with this Court (R. 33-36). Initially petitioners were refused the stay, being advised that such stays would thereafter be issued only by the District Court. Petitioners Smith and McKinzie were arrested pursuant to the District Court's bench warrants on October 30, 1964.

On November 2, 1964 petitioners applied to the District Court for a stay of execution pending preparation of their petition to this Court for a Writ of Certiorari. The application for a stay was denied that same day (R. 46). On

November 4, 1964 (following the Election Day holiday when the courts were closed) petitioners again applied to the Supreme Court of Louisiana for a stay, or alternatively for writs of habeas corpus and mandamus (R. 37-44). At that point the petitioners' first petition, which had been filed on October 28, 1964, was granted, but the stay of execution of the sentences was limited to a period of thirty days from November 4th. The stay was subsequently extended for an additional thirty days, expiring on January 4, 1965.

How Federal Questions Were Raised

The Federal questions presented here were raised in the District Court by written Motion to Quash (R. 12-14) and written Motion for a New Trial (R. 31-32) and by written Bills of Exceptions to the denial of such motions (R. 8-32), and in the Supreme Court of Louisiana by application for Writs of Mandamus, Certiorari and Prohibition (R. 3-6).

Petitioners accordingly raised their Federal claims at the earliest opportunity and renewed them at each stage of the proceedings below.

Reasons for Granting the Writ

The convictions below conflict with applicable decisions of this Court on important constitutional issues. If the conviction be upheld on the facts in this record, statutes such as we have before us can effectively be utilized to circumvent and nullify constitutional rights reaffirmed by the Civil Rights Act of 1964.

ARGUMENT

POINT I

The convictions below violate Constitutional guarantee of due process of law.

A. The Convictions Below Were Totally Unsupported by the Evidence

The material facts of this case virtually duplicate those in *Taylor* v. *Louisiana*, 370 US 154, 82 S. Ct. 1188 (1962), in which this Court held that a conviction of disturbing the peace could not be upheld under L. S. A. R. S. Sec. 14:103.1 (the same statute under which this conviction was rendered) if the only evidence was that petitioners "were violating a custom that segregated people in waiting rooms". The "mere presence" of Negroes in a white waiting room is not likely to give rise to a breach of the peace. 370 US 154, 155. In effect such evidence without more constitutes no evidence of disturbance of the peace, and the conviction falls under the rules of *Thompson* v. *Louisville*, 362 US 199, 204, 206, where the court held that a conviction in a state court must be set aside "if there is no support for these convictions" or "the record is entirely lacking in evidence to support any of the charges," or is "without evidence of his guilt." Not present here is a statement common to many similar trials that the on-looking whites seemed disturbed.

As much as the waiting room of an interstate bus station, the reading room of a public library is clearly an area in which segregation cannot be enforced. See also *Wright* v. *Georgia*, 373, US 284, where six Negro petitioners were peacefully playing basketball in a public park, and the

court found no evidence of any activity which might be thought to violate a breach of the peace statute; *Mayor and City Council of Baltimore City* v. *Dawson,* 350 US 877, where city could no longer enforce racial segregation in the enjoyment of public beaches and bathhouses; *Holmes* v. *Atlanta,* 350 US 879, where city was restrained from denying Negroes the right to use the public golf course; *Gayle* v. *Browder,* 352 US 903, where city could no longer require segregation on motor buses; *New Orleans City Park Improvement Asso.* v. *Detiege,* 358 US 54 where municipality was enjoined from denying Negroes use of the park facilities.

No ground for the District Court's decision other than that petitioners, Negroes, chose to remain quietly in the public area of the library after being asked to leave (R. 140). The record is bare of proof of any activity which supports a finding that there was any other element of the crime charged. The entire findings of fact by the District Court are as follows:

> "The evidence clearly shows that these 5 men went into the library, that they asked for a book and were served, at least their order was taken. Of course, the library at that time, being occupied only by two female library-workers, they then asked the parties to leave. This was done twice, and finally the Sheriff again asked them to leave . . ."
>
> "Clearly the evidence shows that these parties did not congregate when they came to the town of Clinton to the Audubon Parish Library, merely for the purpose of seeking service; that they had a specific motive and a specific intent, and that was, as was shown beyond any reasonable doubt, to refuse to

leave the library even after they had been served, and after they had been requested three times." (R. 140)

Louisiana statute 14:103.1 requires proof of an intent to provoke a breach of the peace or acts "under circumstances such that a breach of the peace may be occasioned." The Sheriff, by his own testimony, stated that he never ascertained the facts regarding either element of the crime as defined by the statute (R. 119-121). He did not know of his own knowledge nor did anyone communicate to him facts indicating whether or not petitioners intended to provoke a breach of the peace or that a breach of the peace might be occasioned by their conduct. No proof of an intent to disturb the peace can be inferred from the fact that petitioners may be members of the Congress of Racial Equality, an organization to test and eliminate racial discrimination. See *Taylor* v. *Louisiana,* 370 US 154, 156 (1962), where evidence was offered to show that the demonstration was part of a "preconceived plan" and this Court stated that such evidence had no bearing on whether there could be a conviction for disturbing the peace. The mere assertion that the Regional Librarian felt "disturbed" by the presence of Negroes in the branch library therefore reserved for white persons can not support such a finding. *Wright* v. *Georgia,* 373 US 284, 292-293 and *Taylor* v. *Louisiana,* 370 US 154.

B. The Elements Necessary to Establish a Breach of the Peace Under Louisiana Law Were Carefully Analyzed by This Court in *Garner v. Louisiana,* 368 US 157, 82 S. Ct. 248

In *Garner* Negroes took seats at lunch counters where only white persons customarily were served, and they re-

mained quietly in their seats after being told they could not be served there. This Court found "The records barren of any evidence that would support a finding that petitioners' conduct would even 'foreseeably' have disturbed the public." 368 US 157, 166. No issue was to the right of petitioners to seek service in the public library can exist. Accordingly the issue raises no questions of trespass and is that much sharper as to the illegality of the arrest and the subsequent conviction.

At the time of the arrests, there were in the library only the five petitioners, two members of the library staff, the Sheriff and two or more deputies (R. 116). No evidence tending to show likelihood of any disturbance of any kind (R. 126-127) was offered. No one exhibited any concern or agitation. There was no noise—the only conversation appeared to be that resulting from the statements of the librarians and the Sheriff and the answers of one petitioner to their questions (R. 97, 121-122). Not even the barest indications of an imminent breach of the peace were present. *Cantwell* v. *Connecticut,* 310 US 296. The Sheriff testified flatly that the sole element constituting grounds for the arrest of the petitioners was their refusal to leave when ordered to do so by him (R. 121). No ascertainable reason for demanding that petitioners leave the library exists (other than their color), and no reason in law or facts existed for their subsequent arrest.

C. The Louisiana Statute as Applied to These Petitioners Was Vague, Uncertain and Indefinite

Were this Court to assume, *arguendo,* that Sec. 14:103.1, in requiring only that an accused's conduct take place "under circumstances such that a breach may be occasioned

thereby," removes the necessity of determining that such conduct could "foreseeably disturb or alarm the public," it might be argued that even though the facts here do not meet the standards enunciated in *Garner* v. *Louisiana*, the new statute's less rigorous standards have been met. But to accept this argument would in effect admit that the new statute fails to specify any ascertainable standard of criminality. Read in this manner, Sec. 14:103.1 placed upon the ordinary citizen the burden of guessing whether a breach of peace might be occasioned by any given set of circumstances, regardless of whether such result is reasonably foreseeable at the time. Some spectators to one's presence, timid souls, might be easily alarmed; others, heartier by nature, might not become apprehensive so quickly at the sight of a Negro in a "white only" library. To require one to speculate as to the consequences of one's presence is to place one at the mercy of irrationality and deprive one of life, liberty and property without due process of law. Speech, and its free exercise, is rendered into the tender hands of the know-nothing. See *Lanzetta* v. *New Jersey*, 306 US 541, 543; *United States* v. *L. Cohen Grocery*, 225 US 81, 89; *Connally* v. *General Construction Co.*, 269 US 385, 591. In no way can the facts in this case be compared with *Cox* v. *Louisiana*, 379 US 536. Nor is there any question here of the reasonable nature of any regulation directing the time and place for the use of these facilities. So far as these appellants are concerned, Negroes all, the ban was absolute.

By enacting Sec. 14:103.1 the State of Louisiana has attempted to abandon the fixing of any standard of criminality. Where a statute so vaguely worded is used to punish

conduct—such as the use by persons of public facilities to which they have a constitutionally protected right—the statute must be held unconstitutionally vague, uncertain and indefinite. *Wright* v. *Georgia*, 373 US 284, 293; *Winters* v. *New York*, 333 US 507.

POINT II

The convictions below constitute enforcement of racial segregation in violation of Constitutional guarantees of equal protection of the laws and statutory guarantees of freedom from punishment for exercising rights to non-segregated use of facilities.

The evidence below clearly delineates the pattern of seggregation which characterized the operations of the Audubon Regional Library (R. 98, 120, 132, 137). Elaborate rules regarding the correct "point of service" for users of the library effectively segregated Negroes to the "Blue Bookmobile" (R. 109-110, 112, 115-116). Only persons registered at a specified "point of service" were afforded access to browsing and reference shelves and other reading room facilities at such "point of service" (R. 111-112, 128-129). Registration cards issued at the Blue Bookmobile were stamped with the word "Negro" and white persons were not registered there (R. 137).

Against this pattern of segregation of facilities the arrest and conviction of the petitioners takes on added significance.* The Constitution of the United States forbids

* Interestingly, the Trial Court claimed this trial was a simple "breach of peace" case (R. 112) with no segregation overtones; nevertheless the District Attorney expended the first 58 pages of the transcript in an attempt to show CORE's involvement.

enforcement of segregation of public facilities. *Brown* v. *Board of Education,* 347 US 483, 495. To continue the effects of segregation through the use, by public officials, of vaguely worded statutes can only undermine the substance of the holdings of this Court supportive of constitutional guarantees to equal protection of the laws.

Before us we have a record making clear that the conviction of petitioners had as its primary purpose the deterrence of Negroes from using the "white" library facilities theretofore denied to them. Such a purpose is clearly in conflict with the Constitution. Absent a showing of independent criminal activity, the convictions constitute an unconstitutional attempt to enforce segregation by the State of Louisiana and accordingly should not be allowed to stand. See *Garner* v. *Louisiana,* 368 US 157, 181.

POINT III

Petitioners having presented themselves peacefully, the convictions below constitute a denial of petitioners' rights of freedom of expression and assembly and constitute a denial of the right to redress a public grievance.

The evidence below shows that petitioners were not only engaged in an attempt to seek to use the public utilities of the Audubon Regional Library, but that they were also engaged quietly in protesting the illegal segregation policies and practices of that library and thereby to seek the correction thereof (R. 85-88, 91-92, 117-118, 130). Indeed, the State's case appeared to be predicated on the theory that this activity alone constituted a material element of the criminal activity charged (R. 77-78). A conviction based

on such grounds would clearly be in conflict with the Due Process Clause of the Fourteenth Amendment as it guarantees the First Amendment protection of freedom of expression and assembly. *Edwards* v. *South Carolina,* 372 US 229; *Garner* v. *Louisiana,* 368 US 157, 201-204 (concurring opinion); *NAACP* v. *Alabama,* 357 US 449, 461.

To have left the library at the direction of the Sheriff would have meant succumbing to an illegal police order. While there are risks attendant upon disobeying a police order, to make it a crime to disobey any police order no matter how wrongful, not only is to give in to injustice, but to participate in the installation of a police state. It is only in the police state that the refusal to obey a police order is a crime by itself. No act, even remotely improper exists before us except the refusal to obey the Sheriff, the very Sheriff who came to the library either to expel them, or arrest them. What honorable alternative does a man have at this juncture? If a man cannot stand peacefully in a public library without risking arrest where then is he safe? The arrest here had nothing to do with the maintenance of law and order, but occurred merely to retain the old order and to continue the denial of the constitution of the United States to Negroes in Louisiana.

POINT IV

Had these acts occurred on or after July 2, 1964, arrests therefore would have been improper under Title III of the 1964 Civil Rights Act; accordingly the convictions should be abated.

In seeking to use the public reading room and other facilities of the Audubon Regional Library on a non-discriminatory and non-segregated basis, petitioners were engaging in an activity which would be protected under the Civil Rights Act of 1964 had it been in effect. Accordingly, at this time, the convictions are in conflict with the provisions of that Act (Title III) and the prosecutions should be abated, the judgment vacated and the charges dismissed. *Hamm* v. *Rock Hill,* 379 US 306; *Bell* v. *Maryland,* 378 US 226, 84 S. Ct. 1815.

The acts complained of were certainly not evil in themselves, but at worst *arguendo,* merely wrongful because of the official maintenance of segregation and upholding of such practice by the usage of the white community. Since national policy on the use of public facilities is made clear beyond a peradventure by Title III, and since this application to this Court is part of the procedure on appeal of this case, the judgments of conviction are not yet final and accordingly such judgments should be abated and the bills of information dismissed. That the convictions were procured under state statutes by state courts is of little interest since we are here concerned with national policy protecting the peaceful use (as is the fact here) of public facilities.

CONCLUSION

The conviction of petitioners below is unsupported by any evidence and was made pursuant to a statute unconstitutionally vague and uncertain. The conviction represents an attempt to use State power to enforce illegal racial segregation and denies petitioners their rights to the freedoms of expression and assembly. For all of these reasons the conviction and the decree of the Supreme Court of Louisiana upholding the conviction should be reversed.

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Certificate

I, the undersigned, hereby certify that I have this day mailed, postage prepaid, copies of the foregoing brief to the Honorable Jack Gremilion, Attorney General of the State of Louisiana, and the Honorable Richard Kilbourne, attorneys for the Respondent, at their usual business addresses.

Dated at New York, New York, this 23rd day of August, 1965.

CARL RACHLIN